**HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR**

**DIVISION BENCH**

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**CORAM : Hon'ble Shri S.R. Nayak, C.J.**
**Hon'ble Shri D.R. Deshmukh, J.**

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**M.A. No. 346 OF 2006**

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| **APPELLANT NON-APPLICANT NO.3** | | The United India Insurance Company Limited, Through Divisional Manager, Divisional office, Bilaspur, Tahsil and District Bilaspur (Chhattisgarh) (wrongly written since it is in Korba, District Korba (Chhattisgarh) |
| | Versus | |
| **RESPONDENTS** | 1. | Smt. Dolkunwar, wife of Hulasram Patel, aged 40 years, Occupation House wife |
| | 2. | Hulasram Patel, son of Bhagatram Patel, aged 43 years, |
| | 3. | Ku. Janki Bai, daughter of Hulasram Patel, aged about 21 years, |
| | 4. | Ku. Nemkumari, daughter of Hulasram Patel, aged 14 years (minor) Respondent no. 4 minor through natural guardian Mother, Smt. Dolkunwar Bai, Respondent No. 1, All are resident of Shankarpara, village and post Kodiya, Police Station Seepat, Tahsil Seepat, (Masturi), District Bilspur (C.G.) **CLAIMANTS** |
| | 5. | Satyanarayan Pandey, son of Vyasnaran Pandey, resident of village Bandhwapara, Post Kodiya, Police Station and Tahsel Seepat, District Bilaspur (C.G.) |
| | 6. | Smt. Binda Devi daughter of late Ramjeevan Pandey, resident of village Khapri, Takhatpur, Tahsil Takhatpur, District Bilaspur (C.G.) |
| | 7. | Smt. Rajeshwari daughter of late Ramjeevan Pandey, Resident of Kishore Nagar Bilaspur, Tahsil and District Bilaspur (C.G.) |
| | 8. | Smt. Rama Bai, daughter of late Ramjeevan Pandey, Resident of Shankargarh, Shahdol. |
| | 9. | Smt. Shyam Bai daughter of late |

Ramjeevan Pandey resident of Nayapara, Gol Bazar, Raipur (C.G.)
**NON-APPLICANT NO. 1 & 2**

**M.A. No. 347 OF 2006**

**APPELLANT NON-APPLICANT NO. 3**

The United India Insurance Company Limited, Through Divisional Manager, Divisional office, Bilaspur, Tahsil and District Bilaspur (Chhattisgarh) (wrongly written since it is in Korba, District Korba (Chhattisgarh)

Versus

**RESPONDENTS**

1. Smt. Phoolmati Bai, wife of Raghubir Prasad Patel, 35 years,
2. Raghubir Prasad Patel, son of Kirtan Lal Patel, aged 40 years,
Both are resident of Hardadih, Kunwapara, P.O. Erumshahi, Police Station Seepat, Tahsil Seepat, (Masturi), District Bilaspur (C.G.)
**CLAIMANTS**
3. Satyanarayan Pandey, son of Vyasnaran Pandey, resident of village Bandhawapara, Post Kodiya, Police Station and Tahsel Seepat, District Bilaspur (C.G.)
4. Smt. Binda Devi daughter of late Ramjeevan Pandey, resident of village Khapri, Takhatpur, Tahsil Takhatpur, District Bilaspur (C.G.)
5. Smt. Rajeshwari daughter of late Ramjeevan Pandey, Resident of Kishore Nagar Bilaspur, Tahsil and District Bilaspur (C.G.)
6. Smt. Rama Bai, daughter of late Ramjeevan Pandey, Resident of Shankargarh, Shahdol.
7. Smt. Shyam Bai daughter of late Ramjeevan Pandey resident of Nayapara, Gol Bazar, Raipur (C.G.)
**NON-APPLICANT NO. 1 & 2**

**M.A. No. 348 OF 2006**

**APPELLANT NON-APPLICANT NO. 3**

The United India Insurance Company Limited, Through Divisional Manager, Divisional office, Bilaspur, Tahsil and District Bilaspur (Chhattisgarh) (wrongly written since it is in Korba,

District Korba (Chhattisgarh)

Versus

**RESPONDENTS**

1. Smt. Goutam Bai, wife of Accheram yadav, aged 38 years,
2. Accheram yadav, son of Santuram Yadav, aged 45 years,

Both resident of Village Banduwapara Post Kodiya, Police Station Seepat Tahsil Seepat, (Masturi), District Bilaspur (C.G.)

**CLAIMANTS**

3. Satyanarayan Pandey, son of Vyasnaran Pandey, resident of village Bandhwapara, Post Kodiya, Police Station and Tahsel Seepat, District Bilaspur (C.G.)
4. Smt. Binda Devi daughter of late Ramjeevan Pandey, resident of village Khapri, Takhatpur, Tahsil Takhatpur, District Bilaspur (C.G.)
5. Smt. Rajeshwari daughter of late Ramjeevan Pandey, Resident of Kishore Nagar Bilaspur, Tahsil and District Bilaspur (C.G.)
6. Smt. Rama Bai, daughter of late Ramjeevan Pandey, Resident of Shankargarh, Shahdol.
7. Smt. Shyam Bai daughter of late Ramjeevan Pandey resident of Nayapara, Gol Bazar, Raipur (C.G.)

**NON-APPLICANT NO. 1 & 2**

**M.A. No. 349 OF 2006**

**APPELLANT NON-APPLICANT NO. 3**

The United India Insurance Company Limited, Through Divisional Manager, Divisional office, Bilaspur, Tahsil and District Bilaspur (Chhattisgarh) (wrongly written since it is in Korba, District Korba (Chhattisgarh)

Versus

**RESPONDENTS**

1. Smt. Sita Bai widow of Purushottam Patel, aged 22 years,
2. Ku. Pooja, daughter of Late Purushottam Patel, aged 3 years, minor
3. Smt. Sukhmati Bai, wife of Bhojram

Patel, aged 42 years,

4. Bhojram Patel, son of Tikaitram Patel, aged 48 years,

For respondent no. 2 being minor through respondent no. 1 Smt. Sita Bai, who is natural guardian mother of respondent no. 2, All resident of Bandhuwapara, Post Kodiya, Police Station Seepat, Tahsil Seepat, (Masturi), District Bilspur (C.G.)

**CLAIMANTS**

5. Satyanarayan Pandey, son of Vyasnaran Pandey, resident of village Bandhawapara, Post Kodiya, Police Station and Tahsel Seepat, District Bilaspur (C.G.)
6. Smt. Binda Devi daughter of late Ramjeevan Pandey, resident of village Khapri, Takhatpur, Tahsil Takhatpur, District Bilaspur (C.G.)
7. Smt. Rajeshwari daughter of late Ramjeevan Pandey, Resident of Kishore Nagar Bilaspur, Tahsil and District Bilaspur (C.G.)
8. Smt. Rama Bai, daughter of late Ramjeevan Pandey, Resident of Shankargarh, Shahdol.
9. Smt. Shyam Bai daughter of late Ramjeevan Pandey resident of Nayapara, Gol Bazar, Raipur (C.G.)

**NON-APPLICANT NO. 1 & 2**

**M.A. No. 350 OF 2006**

**APPELLANT NON-APPLICANT NO. 3**

The United India Insurance Company Limited, Through Divisional Manager, Divisional office, Bilaspur, Tahsil and District Bilaspur (Chhattisgarh) (wrongly written since it is in Korba, District Korba (Chhattisgarh)

Versus

**RESPONDENTS**

1. Smt. Mankunwar Bai, widow of Jeetram Patel, aged 40 years,
2. Ku. Sarojani, daughter of late Jeetram patel, aged 14 years, minor
3. Ku. Amarika, daughter of Late eetram Patel, aged 12 years, minor
4. Ashwani Kumar, son of Late jeetram Patel, aged 10 year, minor

5. Umashankar, son of Jeetram Patel, aged 8 years, minor,
For minor respondent no. 2,3,4 and 5 their Natural guardian mother Smt. Mankunwar Bai i.e. respondent no. 1, resident of Bandhuwapara, Post Kodiya, Police Station Seepat, Tahsil Seepat (Masturi), District Bilaspur (C.G.)

**CLAIMANTS**

6. Satyanarayan Pandey, son of Vyasnaran Pandey, resident of village Bandhawapara, Post Kodiya, Police Station and Tahsel Seepat, District Bilaspur (C.G.)
7. Smt. Binda Devi daughter of late Ramjeevan Pandey, resident of village Khapri, Takhatpur, Tahsil Takhatpur, District Bilaspur (C.G.)
8. Smt. Rajeshwari daughter of late Ramjeevan Pandey, Resident of Kishore Nagar Bilaspur, Tahsil and District Bilaspur (C.G.)
9. Smt. Rama Bai, daughter of late Ramjeevan Pandey, Resident of Shankargarh, Shahdol.
10. Smt. Shyam Bai daughter of late Ramjeevan Pandey resident of Nayapara, Gol Bazar, Raipur (C.G.)

**NON-APPLICANT NO. 1 & 2**

**M.A. No. 351 OF 2006**

**APPELLANT NON-APPLICANT NO. 3**

The United India Insurance Company Limited, Through Divisional Manager, Divisional office, Bilaspur, Tahsil and District Bilaspur (Chhattisgarh) (wrongly written since it is in Korba, District Korba (Chhattisgarh)

Versus

**RESPONDENTS**

1. Smt. Maheshnati Bai, wife of Dilchand Patel, aged 42 years,
2. Dilchand Patel, son of Prahlad Patel, aged 46 years,
Both resident of Village Kodiya, Shanker Para, Post Kodiya, Police Station Seepat, Tahsil Seepat (Masturi), District Bilaspur (C.G.)

**CLAIMANTS**

3. Satyanarayan Pandey, son of

Vyasnaran Pandey, resident of village Bandhawapara, Post Kodiya, Police Station and Tahsel Seepat, District Bilaspur (C.G.)

4. Smt. Binda Devi daughter of late Ramjeevan Pandey, resident of village Khapri, Takhatpur, Tahsil Takhatpur, District Bilaspur (C.G.)
5. Smt. Rajeshwari daughter of late Ramjeevan Pandey, Resident of Kishore Nagar Bilaspur, Tahsil and District Bilaspur (C.G.)
6. Smt. Rama Bai, daughter of late Ramjeevan Pandey, Resident of Shankargarh, Shahdol.
7. Smt. Shyam Bai daughter of late Ramjeevan Pandey resident of Nayapara, Gol Bazar, Raipur (C.G.)

**NON-APPLICANT NO. 1 & 2**

**M.A. No. 352 OF 2006**

**APPELLANT NON-APPLICANT NO. 3**

The United India Insurance Company Limited, Through Divisional Manager, Divisional office, Bilaspur, Tahsil and District Bilaspur (Chhattisgarh) (wrongly written since it is in Korba, District Korba (Chhattisgarh)

Versus

**RESPONDENTS**

1. Smt. Amarika Bai, wife of Shyamu Patel, aged 35 years,
2. Shyamu Patel, son of Chakradhar Patel, aged 40 years,

Both resident of Village Kodiya, Shanker Para, P. O. Kodiya, Police Station Seepat, Tahsil Seepat (Masturi), District Bilaspur (C.G.)

**CLAIMANTS**

3. Satyanarayan Pandey, son of Vyasnaran Pandey, resident of village Bandhawapara, Post Kodiya, Police Station and Tahsel Seepat, District Bilaspur (C.G.)
4. Smt. Binda Devi daughter of late Ramjeevan Pandey, resident of village Khapri, Takhatpur, Tahsil Takhatpur, District Bilaspur (C.G.)
5. Smt. Rajeshwari daughter of late Ramjeevan Pandey, Resident of Kishore Nagar Bilaspur, Tahsil and

District Bilaspur (C.G.)

6. Smt. Rama Bai, daughter of late Ramjeevan Pandey, Resident of Shankargarh, Shahdol.
7. Smt. Shyam Bai daughter of late Ramjeevan Pandey resident of Nayapara, Gol Bazar, Raipur (C.G.)

**NON-APPLICANT NO. 1 & 2**

**M.A. No. 353 OF 2006**

**APPELLANT NON-APPLICANT NO. 3**

The United India Insurance Company Limited, Through Divisional Manager, Divisional office, Bilaspur, Tahsil and District Bilaspur (Chhattisgarh) (wrongly written since it is in Korba, District Korba (Chhattisgarh)

Versus

**RESPONDENTS**

1. Smt. Bundkunwar Bai, wife of Chetram Patel, aged 40 years,
2. Chetram Patel, son of Shri Chand Patel, aged 45 years,

Both resident of Village Kodiya, Bandhuwa Para, Post Kodiya, Police Station Seepat, Tahsil Seepat (Masturi), District Bilaspur (C.G.)

**CLAIMANTS**

3. Satyanarayan Pandey, son of Vyasnaran Pandey, resident of village Bandhawapara, Post Kodiya, Police Station and Tahsel Seepat, District Bilaspur (C.G.)
4. Smt. Binda Devi daughter of late Ramjeevan Pandey, resident of village Khapri, Takhatpur, Tahsil Takhatpur, District Bilaspur (C.G.)
5. Smt. Rajeshwari daughter of late Ramjeevan Pandey, Resident of Kishore Nagar Bilaspur, Tahsil and District Bilaspur (C.G.)
6. Smt. Rama Bai, daughter of late Ramjeevan Pandey, Resident of Shankargarh, Shahdol.
7. Smt. Shyam Bai daughter of late Ramjeevan Pandey resident of Nayapara, Gol Bazar, Raipur (C.G.)

**NON-APPLICANT NO. 1 & 2**

M.A. No. 354 OF 2006

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|---|---|---|
| APPELLANT NON-APPLICANT NO. 3 | | The United India Insurance Company Limited, Through Divisional Manager, Divisional office, Bilaspur, Tahsil and District Bilaspur (Chhattisgarh) (wrongly written since it is in Korba, District Korba (Chhattisgarh) |
| | Versus | |
| RESPONDENTS | 1. | Smt. Bundkunwar Bai, wife of Chetram Patel, aged 40 years, |
| | 2. | Chetram Patel, son of Shri Charan Patel, aged 45 years, Both resident of Village Kodiya, Bandhuwapara, Post Kodiya, Police Station Seepat, Tahsil Seepat (Masturi), District Bilaspur (C.G.) **CLAIMANTS** |
| | 3. | Satyanarayan Pandey, son of Vyasnaran Pandey, resident of village Bandhawapara, Post Kodiya, Police Station and Tahsel Seepat, District Bilaspur (C.G.) |
| | 4. | Smt. Binda Devi daughter of late Ramjeevan Pandey, resident of village Khapri, Takhatpur, Tahsil Takhatpur, District Bilaspur (C.G.) |
| | 5. | Smt. Rajeshwari daughter of late Ramjeevan Pandey, Resident of Kishore Nagar Bilaspur, Tahsil and District Bilaspur (C.G.) |
| | 6. | Smt. Rama Bai, daughter of late Ramjeevan Pandey, Resident of Shankargarh, Shahdol. |
| | 7. | Smt. Shyam Bai daughter of late Ramjeevan Pandey resident of Nayapara, Gol Bazar, Raipur (C.G.) **NON-APPLICANT NO. 1 & 2** |

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Present : Shri H.B. Agrawal, learned Sr. Advocate with Shri J.K. Gupta, learned counsel for the appellants/Insurance Company.

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**ORAL ORDER**
**(Passed on 21st March, 2006)**

The following oral order of the Court was passed by

**S.R. NAYAK, CJ.**

All these appeal filed by the Insurance Company arise out of the common Judgment. Hence, all these appeals were heard together for admission.

(2) The only contention of learned counsel for the appellants/Insurance Company is that the MACT having held that the injured and the deceased were traveling in the vehicle insured by the appellant/Insurance Company as gratuitous passengers, ought not to have fastened the liability to pay compensation on the Insurance Company reserving liberty to it to recover the same from the owner of the motor vehicle involved in the accident. In support of the above submission, reliance is placed on para 21 of the Judgment of Supreme Court in the case of **National Insurance Company Ltd. Vs. Baljit Kaur and others**[1].

(3) We have perused para 21 of the said Judgment. In para 21, the Supreme Court has not laid down that in case the MACT finds that the injured or the deceased persons were traveling in the motor vehicle as gratuitous passenger, the Insurance Company should not be directed to pay compensation in the first instance reserving liberty to it to recover the same from the owner of the motor vehicle involved in the accident. In para 21 of the above Judgment, the Supreme Court has observed that in such a situation, the Insurance Company without resorting to institution of a separate suit, can recover the amount paid by it from the owner of the motor vehicle involved in the accident by filing an application for execution in the same proceedings. In that view of the mater, it is permissible for the

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1 (2004) 2 SCC-1

Insurance Company to resort to such a procedure in the same proceedings and recover the sums of money paid by it to the victims of the accident from the owner of motor vehicle involved in the accident. There is no failure of justice. Hence, these appeals are dismissed.

**Sd/-**
**Chief Justice**

**Sd/-**
**Dilip Raosaheb Deshmukh**
**Judge**

subba